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3 **UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF NEVADA**

5 \* \* \*

6 James H. Dillard II,

7 Plaintiff,

8 v.

9 Damon Lovell, Marquis Edwards, and Kenneth  
Rucker,

10 Defendants.

Case No. 2:23-cv-01242-CDS-DJA

11 **Order**

12 The Court previously granted Plaintiff's request to proceed *in forma pauperis* and  
13 screened the complaint pursuant to 28 U.S.C. § 1915. (ECF No. 3). In doing so, the Court found  
14 that Plaintiff's complaint was deficient. (*Id.*). As a result, the Court dismissed Plaintiff's  
15 complaint on October 27, 2023 and granted Plaintiff leave to amend the complaint, requiring that  
16 an amended complaint be filed within 30 days, which has since passed. (*Id.*). The Court stated,  
17 "[f]ailure to comply with this order will result in the recommended dismissal of this case." (*Id.* at  
18 4). To date, the Court has not received an amended complaint or any request to extend the  
19 deadline for filing one.

20 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without  
21 prejudice. The Clerk of Court is kindly directed to mail this recommendation to Plaintiff.


22 **NOTICE**

23 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be  
24 in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The  
25 Supreme Court has held that the courts of appeal may determine that an appeal has been waived  
26 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142  
27 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file  
28 objections within the specified time and (2) failure to properly address and brief the objectionable

1 issues waives the right to appeal the District Court's order and/or appeal factual issues from the  
2 order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*  
3 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

4 DATED: February 5, 2024

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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE